

Introduced by: Mayor at request of
road service area board
Date: 08/01/00
Shortened Hearing: 08/15/00
Action: Enacted as Amended
Vote: 8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2000-37**

**AN ORDINANCE REPEALING, IN PART, CHAPTER 14.40 REGARDING BOROUGH
RIGHTS-OF-WAY, AND ADOPTING KPB 12.04, PARKING REGULATIONS**

WHEREAS, in 1996 the assembly established parking restrictions within the road service area;
and

WHEREAS, the road service area has been enforcing the restrictions for approximately four years;
and

WHEREAS, revisions are necessary to the notice and signage requirements for those provisions
because the current provisions are impractical; and

WHEREAS, adequate notice and signage are provided in the proposed amendments; and

WHEREAS, the road service area board which is charged with the task of administering the
parking regulations approved these amendments at its May 18, 2000, road service
area board meeting; and

WHEREAS, it is more appropriate for parking regulations to be included in the chapter of the code
addressing vehicles and traffic and presents less confusion than including them in
Title 14 which is jointly administered by the Planning Department and Road Service
Area;

**NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI
PENINSULA BOROUGH:**

SECTION 1. That KPB 14.40.180 through 14.40.250 are hereby repealed.

SECTION 2. That KPB Chapter 12.04 is hereby adopted as follows:

CHAPTER 12.04. PARKING REGULATIONS

12.04.010. Parking regulation—Parking restrictions—Establishment.

Pursuant to KPB 14.14.040, under authority of the mayor, the road service area board is
authorized to establish parking limitations within borough-maintained roads. To protect

borough resources and the public health, safety, and welfare, the roads director may temporarily regulate parking within roads as set forth in KPB 12.04.030(D) by posting the affected road at the location to be regulated with a reasonable number of signs restricting or prohibiting parking. The road service area board may adopt policies to implement the provisions of this chapter.

12.04.020. Parking regulation—No parking.

No person or entity may park a vehicle or other equipment within a borough-maintained road if it has been posted as a no parking area without written permission of the director or his designee. Nothing in this provision prevents the director from requiring the removal of vehicles or other blockage from roads or sections of road which are impeding the safe flow of traffic, or interfering with road maintenance.

12.04.030. Parking regulation—Parking restrictions—Establishment.

A. Restrictions necessary. Parking restrictions are established on an as-needed basis depending on the circumstances applicable to a particular road or section of road.

B. Restrictions established. Parking restrictions may be established by the road service area board after being initiated in writing as follows:

1. By the road service area staff;
2. Through a request by a property owner adjacent to the area for which the restrictions are to be considered; or
3. A person using that right-of-way.

C. Petition; notice; hearing. The written petition for parking restrictions shall be filed with the director who shall place the petition on the next open road service area board agenda. The director shall prepare a staff report regarding the proposed restrictions for the benefit of the road service area board in considering the restrictions. A public hearing shall be conducted before the road service area board regarding the proposed parking restrictions which shall be advertised in a newspaper of general circulation within the road service area at least seven days before the hearing is held.

D. Restrictions; immediate need. Notwithstanding the provisions of KPB 12.04.030(B), the director may establish temporary parking restrictions for particular roads or sections of roads for which he makes a determination of immediate need. Determinations of immediate need may be based on congestion; damage or potential damage to roads, adjacent properties and water bodies; and safety concerns. At the next meeting of the road service area board, the service area board shall hold a public hearing and determine whether to continue, modify, or rescind the director's temporary parking restrictions. The notice requirements of KPB 12.04.030© shall

apply to the road service area board's consideration of the director's temporary parking restrictions based on immediate need.

E. Restrictions; resolution. The setting of particular parking restrictions shall be by action of the road service area board by resolution after determination that a need exists for restrictions. Authorized parking restrictions include, but are not limited to, limiting location of parked vehicles, duration of parking, time frames for parking, and total number of vehicles allowed in a road or section of road.

12.04.040. Parking regulation—Signage.

Parking restrictions imposed shall be posted with signs stating the restriction. If the violation of the restrictions may result in towing of a vehicle, the sign shall include a warning that vehicles in violation of the parking regulation may be towed.

12.04.050. Parking regulation—Signage notice.

Restrictions for particular roads or sections of roads will not go into effect until 24 hours after placement of the signs imposing the restrictions. However, a provision for towing of a vehicle shall not go into effect until 48 hours after posting of the signs.

12.04.060. Parking regulation—Parking restrictions—Duration.

Parking restrictions shall continue until the road service area board terminates or modifies the restrictions. The road service area board may, after hearing comments or testimony from the public and reports from the road service area staff, terminate, continue, or modify the restrictions. The public notice and hearing requirements set forth in KPB 12.04.030© apply to termination or modification of parking restrictions.

12.04.070. Parking regulation—Blockage.

Notwithstanding the signage provisions of this regulation where a vehicle or other blockage is impeding the safe flow of traffic or borough road maintenance, the director or designee may tag the vehicle or blockage with a 48-hour warning to remove the vehicle or blockage from the right-of-way. If the vehicle or blockage is not removed within 48 hours, the borough may proceed to remove it at the owner's expense.

12.04.080. Parking regulation—Violations—Civil penalties—Towing.

Vehicles or equipment parked on a road in violation of this regulation shall be towed at the owner's expense, in addition to a fine of up to \$250 for each day the parking regulation is violated as more specifically set forth in KPB 12.04.100.

12.04.090. Parking regulation—Civil penalty—Notice.

Notice of assessment of civil penalties for parking violations may be issued to the vehicle owner for parking violations, by the road service area. The persons designated to issue citations need not be employees of the Kenai Peninsula Borough; however, any such designation shall be written. Issuance may be accomplished by sending the notice to the owner of the vehicle or by placing a copy of the notice on the vehicle for parking violations. It is not a defense that the owner of the automobile was not the operator at the time of the violation.

12.04.100. Civil penalties—Schedule.

In addition to other remedies afforded by law, the borough establishes the following schedule of civil fines for violation of KPB 12.04.

KPB 12.04.020	Parking Violation, First Offense	\$25.00
KPB 12.04.020	Parking Violation, Second Offense—Same Owner/Same Vehicle	\$50.00
KPB 12.04.020	Parking Violation, Second Offense—Same Owner/Different Vehicle	\$50.00
KPB 12.04.070	Parking Violation—Impeding Traffic/Maintenance	\$100.00
KPB 12.04.110(B)	Failure to Respond to Citation/Complaint	\$75.00

Each day a violation occurs constitutes a separate violation.

12.04.110. Civil penalties—Citation—Answer—Hearing—Appeal.

A. Citation. A complaint or citation may be used as the charging document for violations set forth in the civil penalty schedule. The charging document shall state the fine, the ordinance or regulation section violated, that the recipient is entitled to a hearing to contest the citation, and that the recipient is allowed to testify and present evidence and witnesses. The citation shall set forth the procedures the recipient need follow in responding to the citation, and consequences of failure to respond.

B. Answer; payment. The recipient may respond to the charging document by paying the fine within 10 days of issuance of the citation or complaint or requesting a hearing on the citation form within 10 days of citation issuance. Failure to respond to a citation or complaint shall result in a fine of up to \$250, more specifically set forth in KPB 12.04.100.

C. Hearing. The director shall set the hearing giving at least 15 days notice of the date, time and place of the hearing. For good cause the director may delay the date of hearing. The director shall set the agenda for the hearing and may call witnesses and request additional evidence. The director may allow for telephonic participation in the hearing. If necessary the director may continue the hearing to gather additional evidence or take the subject matter of the hearing under advisement. Upon the presentation of the testimony, evidence, and witnesses the director shall issue a written decision with supporting findings and conclusions within five days

of the hearing. The director may uphold the charge and fine, modify the charge, dismiss, or reduce the fine and issue whatever related compliance orders are necessary.

D. Reconsideration. The recipient may request reconsideration by the road service area board within ten days of distribution of the director's decision. The road service area board shall adopt hearing procedures by board resolution consistent with due process.

E. Appeal. The recipient may appeal the reconsideration decision pursuant to Part 6 of the Alaska Rules of Appellate Procedure to the Superior Court in Kenai, Alaska. The recipient must request reconsideration in order to preserve the right to appeal to superior court.

F. Collection. Unpaid fines are collectible through filing actions in the trial courts of the State of Alaska and may include judgments for the fine, costs, and attorneys fees. Fines for charges appealed to superior court are subject to collection unless the appellant receives a stay pending appeal from the court. Arrangements for payment plans may be made by the director if the director determines it is in the borough's best interest.

12.04.120. Definitions.

"Director" means the roads director for the Kenai Peninsula Borough Road Service Area unless otherwise stated.

"Road" means a road certified for borough road service area maintenance and also includes travel surface, ditches, or rights-of-way associated with a borough-maintained road.

SECTION 3. That the title of KPB Chapter 14.40 is hereby amended as follows:

**CHAPTER 14.40. REGULATIONS GOVERNING THE IMPOSITION OF [PARKING,]
SIZE, AND WEIGHT RESTRICTIONS, AND CONTROL OF CONSTRUCTION
WITHIN KENAI PENINSULA BOROUGH RIGHTS-OF-WAY**

SECTION 4. That KPB 14.40.020 is hereby amended as follows:

14.40.020. Scope.

These regulations set forth [PARKING,] size[,] and weight restrictions and govern construction and blockage of borough rights-of-way. These regulations authorize general restrictions applicable to multiple rights-of-way and imposition of site-specific restrictions warranted by circumstances on particular rights-of-way within the borough.

SECTION 5. That KPB 14.40.260 is hereby amended as follows:

14.40.260. Civil penalties—Schedule.

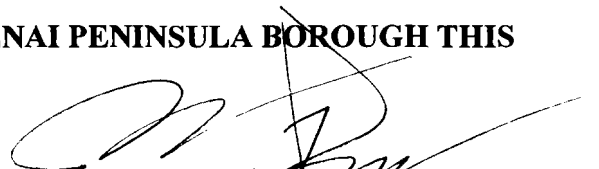
In addition to other remedies afforded by laws, the borough establishes the following schedule of civil fines for violation of KPB 14.14 and 14.40.

KPB 14.40.050	Unlawful Regulation of Traffic Flow; Barricading Right-of-Way	\$125.00
KPB 14.40.060	Violation of Permit Conditions (each condition)	\$150.00
KPB 14.40.065	Failure to Obtain Maintenance Permit; Violation of Permit Conditions	\$25.00
KPB 14.40.070(B)	Failure to [ATTAIN] Obtain Right-of way Construction or Size and Weight Permit	\$250.00
KPB 14.40.070©	Damage to Right-of-way	\$100.00
[KPB 14.40.190	PARKING VIOLATION, FIRST OFFENSE	\$100.00
KPB 14.40.190	PARKING VIOLATION, SECOND OFFENSE—SAME OWNER/ SAME VEHICLE	\$250.00
KPB 14.40.190	PARKING VIOLATION, SECOND OFFENSE—SAME OWNER/ DIFFERENT VEHICLE	\$250.00
KPB 14.40.235	PARKING VIOLATION—IMPEDING TRAFFIC/MAINTENANCE	\$100.00
KPB 14.40.270(B)	Failure to respond to Citation/Complaint	\$75.00

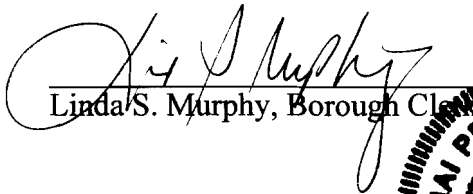
Each day a violation occurs constitutes a separate violation.

SECTION 6. That this ordinance shall take effect immediately upon its adoption.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 15TH DAY OF AUGUST, 2000.


 William Popp, Assembly President

ATTEST:


 Linda S. Murphy, Borough Clerk

